

REMARKS

Claims 1-3 and 5-13 are pending in this application, with claims 8-13 being withdrawn.

Claims 1-3 and 5-7 currently stand rejected, and claim 1 has been amended. Favorable reconsideration of this application in light of the preceding amendments and the following remarks is respectfully requested.

Rejections under 35 U.S.C. § 102

Claims 1-6 stand rejected under 35 U.S.C. § 102(e) as anticipated by US Pat Pub 2004/0168643 to Nilsson (“Nilsson”). The Applicants respectfully traverse this rejection for the reasons detailed below.

With regard to claim 1, the Examiner alleges that Nilsson teaches each and every feature of this claim, including performing a second indicator of mastitis in response to a first positive indicator of mastitis. Applicants respectfully submit that Nilsson does not teach or suggest a first and second *indicator of mastitis*. Nilsson teaches a *flow test* followed by a mastitis test. *See FIG. 2, element 52; ¶¶ [0017]-[0021].* A flow test does not necessarily indicate mastitis; indeed, Nilsson suggests that the flow test is merely an indicator of teat connection and milking completion, not of mastitis or how mastitis indication may be based on a milk flow. *See ¶ [0024].* In order to teach an indicator of mastitis, Nilsson must teach that the flow test indicates mastitis and how it does so, which Nilsson does not.

Further, claim 1 has been amended to clarify that the second indication of mastitis is performed “*only if* said first indicator of mastitis indicates mastitis.” Nilsson does not teach or fairly suggest that the second indication of mastitis is performed only if the first indication of mastitis indicates mastitis; rather, the mastitis test in Nilsson is *always performed*, regardless of whether a particular teat initially fails or passes the flow test. *See FIG. 2, elements 52-56; ¶¶ [0024]-[0025].* Thus, Nilsson does not teach multiple aspects of claim 1 as originally presented and as amended.

Because Nilsson does not teach or fairly suggest each and every element of claim 1, Nilsson cannot anticipate or render obvious claim 1. Claims 2-6 are allowable at least for depending from an allowable base claim 1. Withdrawal of the rejection to claims 1-6 under 35 U.S.C. § 102(e) is respectfully requested.

Rejections under 35 U.S.C. § 103

Claim 7 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Nilsson as applied to claim 1 above, and in further view of Sweden Patent 200000179 to Birk (“Birk”). The Applicants respectfully traverse this rejection for the reasons detailed below.

Birk does not cure, nor does the Examiner apply Birk for curing, the disclosure and suggestion deficiencies of Nilsson discussed above. Specifically, Birk teaches nothing of first and conditional second mastitis indicators. Because Nilsson, alone or in combination with Birk, fails to teach or suggest each and every feature of claim 1, these references cannot anticipate or render obvious claim 1. Claim 7 is allowable at least for depending from an allowable base

claim 1. Withdrawal of the rejection to claim 7 under 35 U.S.C. § 103(a) is respectfully requested.

Entry of Amendment after Final

Applicants respectfully request entry of the above amendments after final rejection. The rejections merely clarify previously-searched subject matter and do not require further search and consideration. Further, the claims are in a position of allowance as previously presented and, at least, the amendments place the claims in better form for appeal. Entry of the submitted claim amendments is earnestly solicited.

CONCLUSION

In view of the above amendments and remarks, the Applicants respectfully submit that each of the pending objections and rejections has been addressed and overcome, placing the present application in condition for allowance. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) hereby petition(s) for a one (1) month extension of time for filing a reply to the outstanding Office Action and submit the required \$120.00 extension fee herewith.

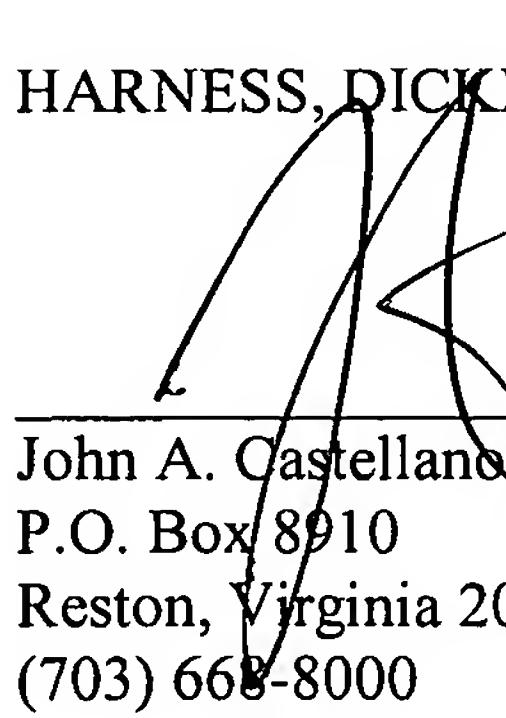
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John A. Castellano, Reg. No. 35,094, at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY, & PIERCE, P.L.C.

By


John A. Castellano, Reg. No. 35,094
P.O. Box 8910
Reston, Virginia 20195
(703) 668-8000

JAC/REA: tlt

QA